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10 VISA, INC.

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Attorney for Plaintiff
RON DAVIS

11

12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**

14

15 RON DAVIS, an individual, on behalf of
himself and all others similarly situated,

16 Plaintiff,

17 v.

18 VISA, INC., a Delaware Corporation,

19 Defendant.

20 Case No. 13-cv-5125-CRB

21 **JOINT STIPULATION AND [PROPOSED]
ORDER RE: EXTENDING TIME TO
RESPOND TO DEFENDANT'S MOTION
TO DISMISS UNDER L.R. 6-2**

22 FAC Filed: December 16, 2013

23 Trial Date: None Set

24 WHEREAS, Plaintiff filed and served his First Amended Complaint ("FAC") in
the above-entitled action on December 16, 2013;

25 WHEREAS, the Parties agreed to a stipulated briefing schedule for Defendant's
forthcoming motion to dismiss on January 14, 2014;

26 WHEREAS, Defendant filed and served a Motion to Dismiss Plaintiff's FAC on
January 15, 2014 pursuant to that stipulated briefing schedule;

27 WHEREAS, Plaintiff's Opposition to Defendant's Motion is currently due under

1 that briefing schedule;

2 WHEREAS, Plaintiff desires additional time to prepare an amended complaint in
3 light of Defendant's Motion;

4 WHEREAS, Plaintiff previously amended his complaint on December 16, 2013
5 and any further amendments require leave of the court or consent from Defendant;

6 WHEREAS, the Parties agree that it would be in the best interests of the Parties
7 and judicial economy if the current deadlines for responding to Defendant's Motion be extended
8 to provide Plaintiff time to prepare a Second Amended Complaint and allow Defendant to review
9 any such amendment and stipulate to its filing if appropriate;

10 WHEREAS, under this agreement and pursuant to L.R. 6-2, Defendant and
11 Plaintiff have met and conferred regarding a briefing schedule, and due to scheduling difficulties
12 and the holidays, the Parties have agreed to the following briefing schedule in order to
13 accommodate such conflicts and allow Plaintiff time to prepare a Second Amended Complaint for
14 Defendant to review:

- 15 • Plaintiff's new deadline to file an opposition to Defendant's Motion shall be March 7,
16 2014;
- 17 • Defendant's deadline to file a Reply shall be March 14, 2014;
- 18 • If the Parties consent and stipulate to any amendment of the operative complaint,
19 Plaintiff's deadline to file such a Second Amended Complaint will be no later than
20 February 28, 2014;
- 21 • If the Parties stipulate to filing a Second Amended Complaint by February 28, 2014,
22 Defendant will take the current Motion off calendar and file a new motion to dismiss
23 the Second Amended Complaint pursuant to the deadlines in the Federal Rules of
24 Civil Procedure, unless the Parties stipulate to, and the Court approves, a different
25 briefing schedule;

26 WHEREAS, this extension will not alter the current hearing date for the Motion,
27 set on March 28, 2014, or the initial case management conference set for the same day, unless the
28 Parties stipulate to the filing of a Second Amended Complaint, in which case the Parties will

1 address those deadlines in that stipulation;

2 NOW, THEREFORE, pursuant to Rule 6-2 of the Local Civil Rules of the United
3 States District Court for the Northern District of California, it is hereby stipulated by and among
4 Plaintiff and Defendant and through their counsel of record that Plaintiff shall file his Opposition
5 to Defendant's Motion no later than March 7, 2014 and Defendant shall file its Reply on March
6 14, 2014, unless the Parties stipulate to Plaintiff filing a Second Amended Complaint on or before
7 February 28, 2014. If such an agreement is reached and Plaintiff files a Second Amended
8 Complaint by February 28, 2014, Defendant will take the Motion off calendar and file a new
9 motion to dismiss the Second Amended Complaint pursuant to the deadlines in the Federal Rules
10 of Civil Procedure, unless the Parties stipulate to, and the Court approves, a different briefing
11 schedule.

12

13 IT IS SO STIPULATED.

14

15 Dated: February 14, 2014

16 RICHARD B. GOETZ
MATTHEW D. POWERS
JACLYN BLANKENSHIP
O'MELVENY & MYERS LLP

17

18 By: /s/ Jaclyn Blankenship
Jaclyn Blankenship

19

20 Attorneys for Defendant
VISA, INC.

21

22 Dated: February 14, 2014

23 CHARLES D. MARSHALL
MARSHALL LAW FIRM

24

25 By: /s/ Charles D. Marshall
Charles D. Marshall

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27 Attorney for Plaintiff
RON DAVIS

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ATTESTATION OF FILING

2 Pursuant to Local Rule 5-1(i)(3) regarding signatures, I, Jaclyn Blankenship, hereby attest
3 that concurrence in the filing of this Joint Stipulation and [Proposed] Order re: Extending Time to
4 Respond to Defendant's Motion to Dismiss Under L.R. 6-2 has been obtained from Charles D.
5 Marshall with conformed signatures above.

Dated: February 14, 2014

By: /s/ Jaclyn Blankenship

Jaclyn Blankenship
O'MELVENY & MYERS LLP
400 South Hope Street
Los Angeles, CA 90071
Telephone: (213) 430-6000
Facsimile: (213) 430-6407

[PROPOSED] ORDER

The Court having considered the Joint Stipulation and [Proposed] Order re: Extending Time to Respond to Defendant's Motion to Dismiss Under L.R. 6-2 submitted by the Parties, and good cause appearing:

1. The Stipulation is approved;
2. Plaintiff's new deadline to file an Opposition to Defendant's Motion shall be March 7, 2014;
3. Defendant's deadline to file a Reply shall be March 14, 2014;
4. If the Parties consent and stipulate to any amendment of the operative complaint, Plaintiff's deadline to file such a Second Amended Complaint will be no later than February 28, 2014;
5. If the Parties stipulate to filing a Second Amended Complaint by February 28, 2014, Defendant will take the current Motion off calendar and file a new motion to dismiss the Second Amended Complaint pursuant to the deadlines in the Federal Rules of Civil Procedure, unless the Parties stipulate to, and the Court approves, a different briefing schedule;

IT IS SO ORDERED.

DATED:

Hon. Charles R. Breyer
UNITED STATES DISTRICT COURT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on February 14, 2014, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the Electronic Mail Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: February 14, 2014

RICHARD B. GOETZ
MATTHEW D. POWERS
JACLYN BLANKENSHIP
O'MELVENY & MYERS LLP

By: /s/ Jaclyn Blankenship
Jaclyn Blankenship
Attorneys for Defendant
VISA, INC.